

# **ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE CREATING AN EMERGENCY RULE**

To create Ins 14, Wis. Adm. Code, relating to vehicle protection plans.

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## **FINDING OF EMERGENCY**

The Commissioner of Insurance finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

The statute requiring these changes is effective on December 1, 2004. The length of the rulemaking process has not permitted OCI to finish promulgating the rule. This emergency implementation will allow vehicle protection businesses to start getting registered and selling their products. Many of these products are promoted as safety related such as glass etching, the "club," vehicle entry warning sirens and others. Consumer would then be able obtain the promoted safety benefits of these products as soon as the legislature permitted them.

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## **ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)**

### **1. Statutes interpreted:**

ss. 100.203, 600.01, 628.34(12) and 632.185 Stats.

### **2. Statutory authority:**

ss. 100.203, 600.01(2), 601.31(1)(km), 601.41(3), 601.42, 628.34(12) and 632.185, Stats.

### **3. Explanation of the OCI's authority to promulgate the proposed rule under these statutes:**

These statutes define certain requirements for vehicle protection plans to be implemented by the Office of the Commissioner of Insurance. The statutes specifically require the Office to set the fees to be paid for regulation. These plans would currently be regulated as full fledged insurers and thus these statutes and implementing rule will lessen substantially the costs to the plans and the regulations that they are subject to.

### **4. Related Statutes or rules:**

None.

### **5. The plain language analysis and summary of the proposed rule:**

This rule implements new statutes regulating vehicle protection plans by setting the fees which the statutes required be set by rule by the commissioner. The fees are set at a level to attempt to cover the agencies costs incurred in relation to the review, data storage, monitoring and regulation of these plans.

**6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

No federal regulation addresses the activities of vehicle protection plans.

**7. Comparison of similar rules in adjacent states as found by OCI:**

Iowa: There is no similar rule in Iowa.

Illinois: Warranties on vehicle protection products are not considered insurance pursuant to s. 155.39, Illinois Insurance Code. Consequently, such products are not regulated by the Illinois Insurance Department.

Minnesota: There is no similar rule in Minnesota

Michigan: There is no similar rule in Michigan.

**8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:**

This rule implements the provisions of 2003 Wisconsin Act 302.

**9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:**

Given the following the following facts, OCI has determined that detailed analysis of the rule's effect on small business was not reasonable or necessary.

- 1) This rule does not impose any additional requirements on small businesses beyond those required or allowed by the applicable statutes.
- 2) The applicable statutes and the proposed rule actually reduce the regulatory burden on warrantors offering vehicle protection product warranties. Prior to the enactment of the statutes, such warrantors were subject to a much broader range of regulation because the warranties being offered are considered to be an insurance product.
- 3) Given that the statutes requiring the registration of warrantors offering vehicle protection product warranties have not yet become effective, it is not possible to accurately determine to what extent such warrantors are small businesses.

**10. If these changes may have a significant fiscal effect on the private sector, the anticipated costs that will be incurred by private sector in complying with the rule:**

As described above, this rule does not impose any additional requirements on small businesses beyond those required or allowed by the applicable statutes and in fact implements statutory provisions that reduce anticipated costs that would otherwise apply in the absence of the statutory provisions.

**11. A description of the Effect on Small Business:**

This rule will have little or no effect on small businesses.

## **12. Agency contact person:**

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the WEB sites at: **<http://oci.wi.gov/ocirules.htm>**

or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110

Email: [Inger.Williams@OCI.State.WI.US](mailto:Inger.Williams@OCI.State.WI.US)

Address: 125 South Webster St – 2<sup>nd</sup> Floor Madison WI 53702

Mail: PO Box 7873, Madison WI 53707-7873

## **13. Place where comments are to be submitted and deadline for submission:**

The deadline for submitting comments is 4:00 p.m. on the 14<sup>th</sup> day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

Robert Luck

Legal Unit - OCI Rule Comment for Rule 15

Office of the Commissioner of Insurance

PO Box 7873

Madison WI 53707-7873

Street address:

Robert Luck

Legal Unit - OCI Rule Comment for Rule 15

Office of the Commissioner of Insurance

125 South Webster St – 2<sup>nd</sup> Floor

Madison WI 53702

WEB Site: **<http://oci.wi.gov/ocirules.htm>**

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The proposed rule changes are:

### **SECTION 1. Chapter Ins 14 is created to read:**

#### **Chapter Ins 14 Vehicle Protection Plans**

**Ins 14.01** Vehicle Protection Plans (1) PURPOSE. This section interprets ss. 100.203, 600.01(1)(b)11., 601.31(1)(km) and 632.185, Stats. The commissioner finds that the making of a vehicle protection plan is the transaction of insurance, subject to full application of chs. 600 to 646, Stats., unless the person making the contract submits to the jurisdiction of the commissioner and to the provisions of these statutes and this chapter.

(2) SCOPE. (a) This chapter applies to all vehicle protection plans operating or offering a vehicle protection plan in this state.

(b) This chapter does not apply to licensed insurers who operate or offer to operate a vehicle protection plan pursuant to an authorization to transact insurance in this state.

**Ins 14.10** Initial Registration Fee. A fee of \$250 shall be paid to the Office of the Commissioner of Insurance at the time the initial warranty registration is filed with the Office of the Commissioner of Insurance.

**Ins 14.20** Annual Warrantor Renewal Registration. (1) The annual warrantor renewal registration form required in s.100.203(2)(b) and an annual fee of \$250 shall

be filed and paid at the Office of the Commissioner of Insurance on or before April 30 of each year.

(2) If the form and fee are not filed and paid on or before April 30<sup>th</sup>, a late filing fee of an additional \$100 is due for each week or part of week after April 30<sup>th</sup> that the form and fee are not filed or paid.

**Ins 14.80** This chapter may be enforced under ss. 100.203, 601.41, 601.64, 601.65, Stats., 632.185, Stats., or any other enforcement provision of chs. 600 to 646, Stats.

**SECTION 2.** These changes first apply to any vehicle protection plan registering in Wisconsin or doing business in Wisconsin on or after the effective date of this rule.

**SECTION 3.** These changes will take effect on the first day of the month after publication, as provided in s. 227.24(1)(c), Stats.

Dated at Madison, Wisconsin, this 6<sup>th</sup> day of December, 2004.

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Jorge Gomez  
Commissioner of Insurance

**Office of the Commissioner of Insurance**  
**Private Sector Fiscal Analysis**

for Rule Ins 14 relating to vehicle protection plans

This rule change will have no significant effect on the private sector regulated by OCI.

# FISCAL ESTIMATE WORKSHEET

## Detailed Estimate of Annual Fiscal Effect

☒ ORIGINAL

☐ UPDATED

☐ CORRECTED

☐ SUPPLEMENTAL

LRB Number

Amendment No. if Applicable

Bill Number

Administrative Rule Number

**INS 14**

### Subject

vehicle protection plans

**One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**

**Modifying existing systems to accommodate these entities – minimal cost absorbed by agency**

Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
State Operations - Salaries and Fringes		\$ Costs absorbed	\$ -0
(FTE Position Changes)		(0 FTE)	(-0 FTE)
State Operations - Other Costs		0	-0
Local Assistance		0	-0
Aids to Individuals or Organizations		0	-0
TOTAL State Costs by Category		\$ Costs absorbed	\$ -0
<b>B. State Costs by Source of Funds</b>		Increased Costs	Decreased Costs
GPR		\$ 0	\$ -0
FED		0	-0
PRO/PRS		0	-0
SEG/SEG-S		0	-0
<b>C. State Revenues</b>		Increased Rev.	Decreased Rev.
Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
GPR Taxes		\$ 0	\$ -0
GPR Earned		0	-0
FED		0	-0
PRO/PRS		\$9,250	-0
SEG/SEG-S		0	-0
TOTAL State Revenues		\$ \$9,250	\$ -0 None

### NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	\$ None 0	\$ None 0
NET CHANGE IN REVENUES	\$ \$9,250	\$ None 0

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Authorized Signature:	Telephone No. 608-267-3782	Date (mm/dd/ccyy) 11/30/2004

## FISCAL ESTIMATE

☒ ORIGINAL

☐ UPDATED

☐ CORRECTED

☐ SUPPLEMENTAL

LRB Number

Amendment No. if Applicable

Bill Number

Administrative Rule Number

**INS 14**

**Subject**

vehicle protection plans

**Fiscal Effect**

State: ☐ No State Fiscal Effect

Check columns below only if bill makes a direct appropriation  
or affects a sum sufficient appropriation.

☐ Increase Existing Appropriation

☒ Increase Existing Revenues

☐ Decrease Existing Appropriation

☐ Decrease Existing Revenues

☐ Create New Appropriation

☒ Increase Costs - May be possible to Absorb  
Within Agency's Budget ☒ Yes ☐ No

☐ Decrease Costs

Local: ☒ No local government costs

1. ☐ Increase Costs  
☐ Permissive ☐ Mandatory

3. ☐ Increase Revenues  
☐ Permissive ☐ Mandatory

5. Types of Local Governmental Units Affected:

☐ Towns ☐ Villages ☐ Cities

2. ☐ Decrease Costs  
☐ Permissive ☐ Mandatory

4. ☐ Decrease Revenues  
☐ Permissive ☐ Mandatory

☐ Counties ☐ Others \_\_\_\_\_

☐ School Districts ☐ WTCS Districts

**Fund Sources Affected**

☐ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

**Affected Chapter 20 Appropriations**

**Assumptions Used in Arriving at Fiscal Estimate**

Vehicle protection plans doing business in this state will be regulated by OCI. This regulation will consist of, at least, reviewing new registrations to do business in this state, reviewing forms used, reviewing the financial responsibility requirements, recording information about these plans in to data systems, reviewing annual renewal registrations, dealing with complaints about such plans and taking administrative action regarding possible violations of law by these plans. All these activities require agency resources.

The statutes allow OCI to charge registration fees and late filing fees to attempt to recover at least some of the costs of regulation. It is unknown how many of these plans will register. Each plan registering will pay an initial fee of \$250 and an annual registration fee of \$250. If 25 plans register, the annual revenue would be \$6250. If 50 plans register, the annual revenue would be \$12,500. There is no way to know how many plans will register but a guess would be between 25 and 50 so 37 was taken as the number registering for the calculation of revenues of \$9,250.

The calculation of the costs incurred by the agency will be dependent on the number of plans registering. There will be initial start-up costs to modify existing database systems to accommodate these plans. In addition, the review of initial registrations, forms and financial responsibility requirements will have to be made. These costs will not be substantial and will be absorbed by the agency within the existing budget. If a significant number of these plans register, the agency may have to request additional personnel to deal with them.

**Long-Range Fiscal Implications**

**None**

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11/30/2004